

BEFORE THE  
POLLUTION CONTROL HEARINGS BOARD  
STATE OF WASHINGTON

IN THE MATTER OF )  
NORTH PACIFIC PLYWOOD, INC., )  
Appellant, )  
v. )  
PUGET SOUND AIR POLLUTION )  
CONTROL AGENCY, )  
Respondent. )

PCHB No. 77-117

FINAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND ORDER

This matter, the appeal of a \$250 civil penalty for the alleged violation of Section 9.03 of Regulation I, came before the Pollution Control Hearings Board, Dave J. Mooney, Chairman, and Chris Smith, at a formal hearing in Tacoma on March 1, 1978. David Akana presided.

Appellant was represented by its attorney, Warren R. Peterson; respondent was represented by its attorney, Keith D. McGoffin.

Having heard the testimony, having examined the exhibits, and having considered the contentions of the parties, the Pollution

1 Control Hearings Board makes these

2 FINDINGS OF FACT

3 I

4 Pursuant to RCW 43.21B.260, respondent has filed with the  
5 Board a certified copy of its Regulation I and amendments thereto  
6 which are noticed.

7 II

8 Appellant is a cooperative which has owned and operated a  
9 plywood plant at 1549 Dock Street in Tacoma since 1949. Three  
10 veneer dryers and a hog fuel boiler are equipment used by  
11 appellant thereon. Two of the veneer dryers were the subject of a  
12 one year variance from the provisions of Section 9.03 of Regulation  
13 I granted to appellant by respondent in August of 1976. Appellant's  
14 superintendent describes the plant as old, and recognizes that  
15 upsets can occur in its operations. As such, he makes an hourly  
16 check for the presence of any problems at the plant. On July 12,  
17 1978, prior to notice of any problem, the superintendent believed  
18 that everything at the plant was "running real good."

19 III

20 On July 12, 1977 at about 1:00 p.m., while on routine patrol,  
21 respondent's inspector saw a blue-white plume rising from appellant's  
22 plant. After positioning himself to make an observation, he  
23 first took several photographs of smoke rising from appellant's  
24 hog fuel boiler stack. He then took an observation of the  
25 plume and recorded emissions of from 35 to 50 percent opacity for  
26 seven consecutive minutes. Appellant's employees were thereafter

27 FINAL FINDINGS OF FACT,  
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1 notified. Upon further investigation at the boiler, it was  
2 discovered that the smoke meter was inoperable. Appellant's  
3 employees were surprised that a violation was alleged. For the  
4 alleged violation, appellant was issued a notice of violation from  
5 which followed a \$250 civil penalty and the instant appeal.

#### 6 IV

7 Appellant apparently relies upon boiler steam flow charts and  
8 dryer air and steam flow charts as indicators of air pollution  
9 problems. Unfortunately, the charts do not always show the presence  
10 of such problems because they are not intended to be used for  
11 such purposes.

12 Appellant also contends that the smoke (which emission was then  
13 allowed by a variance) carried by the wind from the nearby veneer  
14 dryers interfered with the inspector's recorded observations of  
15 smoke from the hog fuel boiler stack, resulting in an erroneous  
16 conclusion. Such interference was not shown to have materially affected  
17 the reading from the boiler stack, however.

#### 18 V

19 Appellant appears to have taken affirmative steps to prevent  
20 air pollution from its facilities. The instant violation was a  
21 surprise to the employees who sincerely believed that everything was  
22 under control. These factors, while not excusing a violation, may  
23 be considered in mitigation of the penalty.

#### 24 VI

25 Any Conclusion of Law which should be deemed a Finding of  
6 Fact is hereby adopted as such.

27 FINAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER

1 From these Findings, the Board makes these

2 CONCLUSIONS OF LAW

3 I

4 On July 12, 1978 appellant violated Section 9.03(b)(2) of  
5 Regulation I by causing or allowing the emissions of an air  
6 contaminant for a period of more than three minutes in any one  
7 hour which was greater than twenty percent opacity. The \$250  
8 civil penalty therefor was properly assessed and should be  
9 affirmed. Under the circumstances of this case, however, suspension  
10 of a portion of the penalty does appear warranted.

11 II

12 Any Finding of Fact which should be deemed a Conclusion  
13 of Law is hereby adopted as such.


14 From these conclusions, the Board enters this

15 ORDER

16 The \$250 civil penalty is affirmed, provided however, that  
17 \$125 of the civil penalty is suspended on condition that appellant  
18 not violate respondent's regulations for a period of six months  
19 after the date of this order.

20 DONE at Lacey, Washington this 6<sup>th</sup> day of March, 1978.

21 POLLUTION CONTROL HEARINGS BOARD

22   
23 DAVE J. MOONEY, Chairman

24   
25 CHRIS SMITH, Member

26 FINAL FINDINGS OF FACT,  
27 CONCLUSIONS OF LAW  
AND ORDER